



U.S. Department of Justice

EPA Region 5 Records Ctr.

Environment and Natural Resources Division



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BSG:AML

DJ No. 90-11-3-1620/2

Environmental Enforcement Section

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July 12, 2001

VIA TELECOPY AND REGULAR MAIL

Kevin J. Hopper, Esq.
Southampton Square
7434 Jager Ct.
Cincinnati, OH 45230

Re: United States v. Aeronca, Inc. et al.
Civil Action No. 1:01 CV 00439
New Settlement Demand; Request for Ability-to-Pay Information

Dear Kevin:

Earlier today, by means of a letter different from this one, I sent you a formal request for a waiver of service of summons, pursuant to the waiver provisions of the Federal Rules of Civil Procedure. You should get that request, and a copy of the complaint, by early next week. You (or your client) will have thirty days from today to sign the waiver, and if you (or your client) do sign the waiver, your client will have sixty days from today to respond to the complaint.

With the additional time, we would like to reach a settlement with your client, and we hope your client will give serious consideration to the major risk facing it if this matter is not settled: the risk of joint and several liability for the United States' \$4.3 million in outstanding costs. While we appreciate your client's view that it has no liability for disposing of construction debris, we have caselaw and expert analysis supporting our contention that your client does have liability for such disposal. At least one other PRP settled this matter despite having transported only construction debris. Moreover, your client has been identified as having been one of the three largest transporters to the Site. Finally, we note that in an early conference with Judge Weber on this matter, Judge Weber indicated that if any PRP "deposited one empty lead paint can on this site [it] possibly could be responsible for the entire 14 million" dollar remedy. Transcript of Proceedings before the Honorable Herman J. Weber, C-1-97-307, at 10 (S.D. Ohio, August 15, 1997).

I understand that your client has been making an "ability to pay" claim. I have just forwarded financial information that I received from EPA to a corporate financial analyst in the antitrust division here at DOJ. He has not yet had the opportunity even to review whether he has sufficient information. However, based on my knowledge of DOJ's typical requests, could you please provide the following documents:

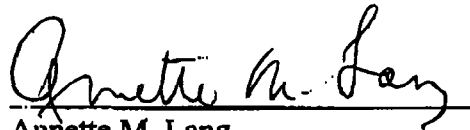
- (1) The 2001 tax return for your client;
- (2) Your client's year end 1999 and 2000 financial statements
- (3) A financial statement from January 1, 2001, through June 30, 2001;

I apologize in advance if you already have provided some of this information to EPA; unfortunately I do not have it in my possession, and Craig now is on vacation. Please send or fax this material so that I receive it by no later than Friday, July 20, 2001. My federal express mailing address is: 1425 New York Ave., NW, Suite 13073, Washington, DC 20005.

Finally, it has been a long time since your client made any settlement offer in this matter. We would appreciate your client's current position on the amount it would be willing to pay.

Thank you for your prompt attention to the matters raised herein.

Sincerely,

A handwritten signature in cursive script, appearing to read "Annette M. Lang", is written over a horizontal line.

Annette M. Lang
Trial Attorney

cc: Craig Melodia (via fax)